January 15, 2008

Hon. Jim Beall, Jr.
Assembly Member, 24th District
Room 5016, State Capitol
Sacramento, California 95814

Dear Assembly Member Beall:

In a letter dated December 7, 2007, you requested that our office prepare a fiscal analysis of a pilot drug treatment program for parolees of a design that you have proposed as potential legislation for this purpose. We discuss our analysis below. Based on subsequent discussions with your staff, we have also provided you with information on two other related topics: (1) the total number of inmates within the prison system who could participate in such a program depending on different eligibility criteria you specified, and (2) a status report on the implementation of recently enacted legislation relating to the rehabilitation of inmates and parolees. Our findings on these two topics are also discussed below.

Fiscal Analysis of Pilot Program

Program Concept

Based on your letter and subsequent conversations with your staff, we conducted a fiscal analysis of a proposed pilot project designed to provide substance abuse treatment to state parolees after their release from an in-prison substance abuse treatment program. This project, as you and your staff described it, would include six major components, including (1) a treatment group of 500 offenders and a control group of 500 offenders, (2) development of a reentry plan for each program participant, (3) release to parole 120 days early for inmates in the treatment group, (4) placement of pilot program participants in residential treatment for 30 days followed by outpatient treatment for 90 days, (5) supervision of the treatment group by a local drug court program, and (6) an independent academic evaluation to estimate the effectiveness of the program.

Summary of Fiscal Analysis

Our analysis finds that, upon its full implementation, the pilot project you have proposed would likely result in a net cost to the state of about $500,000. This includes direct state program costs of about $5.1 million, primarily for substance abuse treatment services and drug court-related activities, as well as lesser amounts for inmate assess-

ments and a program evaluation. Our estimate assumes that the state would reimburse counties for the participation of local prosecutors, defense counsel, and probation authorities in the new drug courts. These costs would be largely, but not completely, offset by direct state savings of about $4.6 million, primarily from reductions in the prison inmate population from the early release of participating inmates, as well as due to reductions in recidivism rates of participating offenders. Our estimates of costs and savings for this pilot program would be associated with the specified group of participants and, therefore, are largely one-time in nature. Figure 1 summarizes these direct state costs and savings.

Figure 1

State Costs and Savings of Proposed Pilot Program

Pilot Component	Costs (+) and Savings (-)
Drug-court costs[a]	$2,641,000
Treatment costs	2,217,000
Prerelease reentry plans	100,000
Program evaluation	100,000
Early release of program participants	-3,781,000
Recidivism reduction impact	-804,000
Net costs	**$474,000**

[a] About two-thirds of drug-court costs are for reimbursements of local agencies, particularly probation, district attorneys, and public defenders.

Detail may not total due to rounding.

Indirect Fiscal Impacts. In addition to the direct state fiscal impacts we have identified above, we would note that this measure could result in other state and local government costs and benefits. These indirect effects are not included in our estimate because their magnitude is very difficult to quantify with certainty.

Specifically, additional costs would result from this pilot project to the extent that offenders released from prison early because of this program require other government services or commit additional crimes that result in victim-related government costs, such as government-paid health care for persons without private insurance coverage. Alternatively, there could be offsetting state and local government revenues as a result of this pilot project to the extent that offenders released from prisons because of this measure become taxpaying citizens. In addition, individuals who participate in and successfully complete a drug treatment program are probably more likely to obtain employment and housing, have drug-free births, and maintain custody of their children. Such outcomes could result in lower government costs related to health and social service programs. The magnitude of these impacts is unknown.

Alternative Approaches Likely to Result in Net Savings. Our analysis finding that the pilot project as proposed would result in an increase in net state costs is based largely on two factors. The first main "cost-driver" is the specified drug treatment routine (30 days residential and 90 days outpatient). Notably, your proposed pilot provides for drug treatment assessments, but does not rely on those assessments to determine the type and duration of treatment that would be provided to participants. The second main cost-driver is drug court-related costs. Both of these factors would drive costs that would be greater than the savings generated by early release and reduced recidivism. Therefore, you may wish to consider two alternative approaches that would likely convert the net direct state costs we have identified into a net state savings. Both of these alternatives assume that inmates are released from prison 120 days early as in your original proposal.

One approach would be to keep the drug court model you propose, but not mandate the specific drug treatment modalities and duration you propose. Data we have reviewed from existing drug court programs indicate that they spend significantly less per participant on treatment services than your pilot would require. This difference in costs is probably because most offenders in drug court programs are placed largely in outpatient services, with residential treatment reserved for participants who, based on an assessment, have the greatest need for such treatment. Allowing the drug court and treatment assessments to determine the appropriate type of treatment placement would likely result in a net savings for the pilot project of about $200,000, and result in more cost-effective decision-making about which offenders are placed in expensive and limited residential beds.

A second approach would be to have the California Department of Corrections and Rehabilitations (CDCR) operate the pilot program within its existing drug treatment programs rather than as part of the local drug courts. Doing so would make the pilot less expensive to operate because there would be no court-related costs. This does involve a trade-off: Existing data on CDCR drug treatment program outcomes, as compared to those for drug courts, suggest that taking this approach would result in outcomes for participants that would not be as good as in the drug court model. This is because drug courts generally demonstrate higher completion rates and lower recidivism rates for program completers than CDCR programs. Nonetheless, the savings on court costs would be so significant that we estimate that having CDCR manage the pilot would nonetheless result in direct net savings to the state of about $1.8 million.

Other Program Design Considerations

In preparing our analysis, we have identified other issues that you may wish to consider as you write legislation authorizing such a pilot project. Below we discuss the following implementation issues: (1) incentives for program completion, (2) authority and

limits on sanctions, (3) local court-related costs, (4) other treatment needs of offenders, and (5) target populations.

Incentives Warranted for Completion of Aftercare. Your pilot provides a strong incentive for inmates to complete in-prison drug treatment—namely, early release from prison. However, this approach does not provide an equally strong incentive to complete treatment after an offender has been released from prison to aftercare in the community. Research consistently shows that participants who successfully complete aftercare have better outcomes—such as reduced rates of recidivism—than those offenders placed in a program who do not complete it. Therefore, a program that provides incentives for successful completion of aftercare could result in greater savings. An example of the type of incentive that could be employed is early discharge from parole supervision after six months of sobriety or successful program participation. For this reason, you may wish to consider whether your bill should include further incentives for inmates to complete aftercare in the community after their release from prison.

Authority and Limits on Sanctions Should Be Specified. You may wish to consider specifying in your legislation what sanctions may be used for program participants who have "dirty" drug tests or who commit new criminal offenses. Even effective programs have participants who succumb to their addictions during treatment. As a result, many drug programs provide some discretion for treatment providers to determine, on an individual basis, when and whether such lapses should result in the participant being removed from the treatment program. In some cases, such lapses may indicate that an offender is unamenable to treatment and that treatment should be discontinued. In other cases, they may determine that the best outcome would be for an offender to be given the opportunity to continue to participate in the program, perhaps while undergoing some sanctions short of revocation to state prison. Such sanctions could include short-term ("shock") incarceration, increased drug testing and counseling, or placement in a more intensive modality of drug treatment.

Additionally, if your legislation requires that the program be administered through drug courts, you may wish to specify in your bill who has the authority to determine whether a participant will continue in a program or be removed when a drug relapse or new criminal conduct occurs. Specifically, it would be important to identify whether the drug court judge or the parole agent is ultimately responsible for these decisions. Otherwise, it would be possible to have conflicting actions. For example, there could be a scenario where a program participant is caught stealing. A parole agent might decide that this activity warrants revocation to prison while the drug court might decide that the theft was related to substance abuse and the offender should continue treatment. Your legislation could also include limits to this discretion by, for example, limiting the number of lapses allowed before removal of an offender from the program or requiring that a participant be removed if the new violation is a violent felony.

Reimbursement of County Costs. It is important to note that, in the event you maintain the aspect of your pilot involving drug courts, some of the costs of operating existing drug courts are generally borne by local governments, particularly for probation, district attorneys, and public defenders. You may want to consider whether you intend for these costs to be reimbursed by the state, at least for the duration of this pilot. If your legislation made county participation mandatory, it would likely constitute a state mandate that would require reimbursement from the state. About two-thirds of the drug court-related costs we identified in our analysis are for local agencies. Alternatively, your legislation could make drug court participation in your pilot optional. If the counties voluntarily opted into the program, there would likely be no state mandate requirement. Assuming enough counties participated, your pilot program could result in a significant net savings to the state instead of the net loss we have estimated. Your legislation could also be structured so as to provide counties a specified amount of funding if they opt into the program.

Addressing Other Needs of Offenders. Many offenders in need of substance abuse treatment have needs for other services and treatment relating to issues that include education, employment, housing, and mental health, among others. Currently, parolees can receive such services through programs administered by the state parole authority, as well as through other state and local agencies. Research demonstrates that programs that are designed to address multiple areas of need are more effective at reducing recidivism. In drafting your legislation, you may wish to include provisions requiring these drug courts to assist participating offenders in accessing other services in addition to substance abuse treatment, and to clarify that drug court participants are to participate in programs administered by CDCR or other state or local agencies while in the drug court program.

Targeting the Program Appropriately. An additional implementation challenge you should consider in designing your pilot program relates to the identification of potential participants while they are in prison for a program that continues during their period on parole. Your proposed evaluation of the effectiveness of your pilot program would be stronger and more manageable if the pilot program participants were concentrated in a limited number of counties with drug court programs. This approach would limit the variation in drug court programs that might make it more difficult to evaluate the outcomes directly associated with your pilot program. However, because inmates sentenced from any individual California county can be housed in any of the state's 33 prisons, it could be difficult to identify which inmates in which prisons are eligible for programs that operate only in certain specific counties.

One potential solution would be to identify individual prisons operating in-prison drug treatment programs that are located near counties that have existing drug court programs and would be willing to participate in the pilot. For example, the R.J. Dono-

van Correctional Facility has operated in-prison drug treatment programs for several years and is located in San Diego County, which currently operates a drug court program. The pilot program could then target only those offenders in those identified prisons that will parole to that specified county. Accordingly, you could consider such an approach in drafting your legislation.

Another important implementation issue is which inmates to target for participation because successful program outcomes often rely on identifying the "right" participants for the program. We discuss the numbers of inmates eligible for the program according to different eligibility criteria in the next section of this letter.

Possible Target Populations

One important consideration in the design of your pilot program is identifying the target population and ensuring that there would be sufficient numbers of offenders who will meet the program's eligibility criteria. With this in mind, you asked us to identify how many prison inmates would qualify for the program if eligibility were restricted based on specified offense history criteria. We discuss our approach to answering your questions and our findings below. In addition, we comment on one other factor—the risk principle—that you may wish to consider when deciding what population of offenders you want to target for your pilot program.

Exclusionary Criteria. In answering your question, we focused our analysis on inmates whose *current* offense is a property or drug crime, thereby excluding inmates who are incarcerated for crimes against persons such as murder, assault, robbery, and sex offenses. Of the selected group of offenders, we then narrowed the potential target population under a combination of three different possible eligibility scenarios, utilizing the following exclusionary criteria: (1) inmates serving life terms, (2) inmates who would be required to register as sex offenders for a prior offense, and (3) inmates who have a current or prior incarceration for a violent offense. Figure 2 shows the results of this analysis.

Significant Inmate Population Available. As shown in the figure, we found that even under the most restrictive set of exclusionary criteria—excluding inmates with any of the three identified criteria—there would be 52,000 inmates in state prison for a current conviction of a property or drug crime who could be eligible for the program. While not all of these inmates will necessarily have a substance abuse problem, research suggests that more than 50 percent of California state inmates are in "high" need of drug treatment services, and even more inmates have some history of substance abuse. Given that only about 9,000 inmates at any given time are receiving in-prison substance abuse treatment, these findings suggest that there would likely be a sufficient number of inmates available for the pilot program you envision. (However, our findings could change if the state or the federal courts act to significantly reduce the inmate popula-

tion, particularly if the specific actions target the same non-violent, non-sex registrant inmates identified in our analysis.)

Figure 2

Possible Target Populations

(As of November 30, 2007)

Current Offense	Current Prison Population Under Different Exclusionary Criteria: Excluding Only Lifers	Excluding Lifers and Sex Registrants	Excluding Lifers, Sex Registrants, And Violent Offenders
Property Offenses	**(32,137)**	**(29,480)**	**(25,818)**
Burglary 1st	6,049	4,488	3,972
Burglary 2nd	5,855	5,594	4,821
Vehicle theft	5,989	5,817	5,242
Petty theft with prior	4,255	4,020	3,264
Receiving stolen property	3,532	3,410	3,084
Other property offenses[a]	6,457	6,151	5,435
Drug Offenses	**(33,052)**	**(31,482)**	**(26,443)**
CS[b] possession	13,152	12,443	10,045
CS possession for sale	11,845	11,463	10,132
CS sales	5,210	4,961	4,022
CS manufacturing	774	741	695
Marijuana offenses[c]	1,361	1,290	1,074
Other drug offenses[d]	710	584	475
Totals	**65,189**	**60,962**	**52,261**

[a] Grand theft, forgery/fraud, and other property crimes.

[b] Controlled substances.

[c] Marijuana possession for sale, marijuana sales, and other marijuana crimes.

[d] Hashish possession and other drug crimes.

The Risk Principle. Whatever exclusionary criteria your program ultimately utilizes, we recommend that your legislation require (in addition to an inmate's need based upon assessments for treatment services) that priority for placement in the program be based on risk to reoffend—what the research literature terms the "risk principle." This refers to the idea that it is more effective to place offenders who are at a higher risk to reoffend in intensive programs than offenders who are at low risk to reoffend. Lower-risk offenders, by definition, are less likely to reoffend and return to prison even in the absence of program participation. Therefore, programs can have a greater overall effect at reducing criminal activity and reducing returns to prison if they target higher-risk offenders, thereby making this a significantly more cost-effective strategy.

The CDCR is currently using a risk and needs assessment tool for inmates prior to parole called Correctional Offender Management Profiling for Alternative Sanctions (commonly referred to as COMPAS) which could provide a risk analysis for each program participant. In drafting your legislation, you may want to consider including a requirement that CDCR use a formal risk assessment tool to evaluate potential participants for likelihood to reoffend and prioritize high-risk offenders for placement in the pilot program and the control group.

Status of Recently Enacted Legislation

You also asked us to provide an update on the implementation of recently enacted legislation: specifically, Chapter 603, Statutes of 2005 (SB 618, Speier) and Chapter 875, Statutes of 2006 (SB 1453, Speier). We describe the current status of both measures below.

SB 618 (Speier). Approved by the Legislature in 2005, this measure permits counties to prepare treatment plans for inmates sentenced to state prison that identify each inmate's individual treatment, literacy, and vocational needs, as well as make recommendations on which programs the inmate should participate in while incarcerated. The measure also authorizes CDCR to work with three counties to implement these plans, provide funding to those counties' probation departments to carry out inmate assessments, and provide the recommended treatment to inmates.

To date, CDCR has partnered with only one county (San Diego) in order to develop the procedures and evaluate the effectiveness of the measure's approach before expanding to other locations. The program began implementation in February 2007, and is designed to generate treatment plans for at least 312 inmates per year. As of November 30, 2007, the program had served 203 inmates, almost all of which were still incarcerated as of that date. Of this total, 110 inmates had been processed through the county jail and a CDCR reception center and been placed in a general population prison. Of these 110 inmates, 60 were in at least one program such as education or substance abuse treatment. Initial reviews of the implementation of the program indicate that CDCR and San Diego County have been successful in developing an integrated information technology system to manage offender data, developing "life plans" for offenders outlining their treatment needs, and expediting their movement through prison reception centers into prison programs.

According to CDCR, it has entered into a three-year $9.8 million agreement with San Diego County to help implement this program. The county has subcontracted with the San Diego Association of Governments for the evaluation of the SB 618 program in that county. The evaluation is expected to be completed in 2009.

SB 1453 (Speier). Approved in 2006, this measure requires that specified inmates who complete an in-prison substance abuse treatment program, whenever possible, be

placed into a 150-day residential aftercare program. The measure further requires that if these offenders complete this phase of the aftercare program that they be discharged from parole supervision at that time. The measure excludes inmates who have a current or prior (1) life sentence, (2) conviction for a serious or violent felony, or (3) sentence for a sex offense that requires registration under Penal Code Section 290.

According to CDCR, the first offenders were placed in residential aftercare under this measure in April 2007. As of December 14, 2007, 371 offenders have currently successfully completed the program. Another 553 offenders are currently enrolled.

The *2007-08 Budget Act* included $1.3 million to supplement existing funds for drug treatment aftercare in order to fully implement SB 1453. Historically, CDCR has been budgeted for 50 percent of in-prison drug treatment participants to participate in residential or outpatient aftercare services.

I hope this information is helpful. If you have any further questions, please contact Brian Brown of my staff at 319-8351.

Sincerely,

Elizabeth G. Hill
Legislative Analyst